

G. V. Seppie Gambino

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4/27, 4/28

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 -----X
4 UNITED STATES OF AMERICA

5 versus 05 CR 60 (NGG)

6 VINCENT BASCIANO,

7 DEFENDANT. U.S. Courthouse
8 Brooklyn, New York

9 -----X
10 April 27, 2011
11 9:30 a.m.

12 TRANSCRIPT OF TRIAL

13 Before the HONORABLE NICHOLAS GARAUFGIS, USDJ

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Q Prior to your violence in aid of racketeering plea, were you asked to participate in a murder?

A Yes.

Q Who was to be murdered?

A Randy.

Q Did you know this Randy?

A Yes.

Q How did you first meet him?

A I met him in early 1990's with John Palazzolo. He was around him.

Q I'm going to show you a couple of pictures.

Starting with Government 47 in evidence, do you

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1 recognize the person depicted in that photograph?

2 (published)

3 A Yes.

4 Q Who do you recognize that person to be?

5 A John Palazzolo.

6 Q If I can now direct your attention to Government

7 Exhibit 51, also in evidence, who do you recognize that person
8 to be?

9 (published)

10 A Randy.

11 Q When were you asked to participate in the murder of
12 Randy?

13 A Around Thanksgiving in '04.

14 Q That's 2004?

15 A Yes.

16 Q How did you first learn that Randy was to be murdered?

17 A I got a phone call from my cousin Anthony to take a ride
18 to meet Dominick.

19 THE COURT: Say that again slowly.

20 THE WITNESS: I got a phone call from my cousin,
21 Anthony Aiello, to go meet Dominick.

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Q Going back now to the murder of Randy, were you offered anything in exchange for your participation in that murder?

A Yes.

Q What were you offered?

A Membership in the Bonanno crime family.

Q Did you agree to participate in the murder?

A No.

Q Did you become a member of the Bonanno crime family?

A No.

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Q After the attack on Eric, were you asked to participate
in another act of violence?
A Yes.

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1 Q Approximately when?

2 A Couple weeks afterwards.

3 Q What were you asked to do on that occasion?

4 A To kill Randy.

5 Q How did you first learn about the plans to kill Randy?

6 A I got a call from my cousin, Anthony, told me we have to
7 go meet Dominick in the city.

8 Q Did you in fact go with your cousin, Anthony, to the
9 city?

10 A Yes.

11 Q Where did you go?

12 A We went to a bar, like a first day around 60s streets,
13 restaurant bar.

14 Q On your way to the bar, what if anything did you and your
15 cousin discuss?

16 A Anthony says we have to do a piece of work.

17 Q And when Anthony said that, what did you understand him
18 to mean?

19 A We have to kill somebody.

20 Q Were you aware of where Vincent was, the defendant, at
21 the time of your meeting with Cicale?

22 A Yes.

23 Q What was your understanding?

24 A He was in jail.

25 Q Approximately how long had he been in jail at that point?

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1 A Couple days.

2 Q On the way to the restaurant, did you have a discussion
3 with your cousin, Anthony, about the purpose of the meeting
4 with Dominick?

5 A Yes.

6 Q Did Anthony tell you who was to be killed?

7 A Yes.

8 Q What did he tell you?

9 A We have to kill Randy.

10 Q When you arrived at the bar, what did you observe?

11 A I saw Dominick sitting in the bar stool in the bar.

12 Q By the time you arrived at the bar, did you have any
13 concerns about the plan to kill Randy?

14 A Yes. I didn't like that whole idea. I thought Dominick
15 was cooperating, they were all cooperating with the
16 government.

17 Q When you say you thought Dominick was cooperating with
18 the government, what do you mean?

19 A Vinny just went to jail for murder, and this is a couple
20 days after this, he wanted to commit a murder. So I thought
21 they were setting me up on like a murder. He was wired up for
22 the government, for me to say yes, to commit a murder.

23 Q At the bar, were there further discussions about the
24 murder plot?

25 A Yes.

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1 Q What if anything did Cicale say about the plan?

2 A He told me the situation is, that I had to drive Randy to
3 a location. Randy would get out of the car, kill somebody.
4 Then I have to drive Randy where -- my cousin, Anthony, would
5 be waiting in the getaway car, and then when Anthony felt
6 comfortable, he had to kill Randy.

7 Q So what was your planned role, according to Dominick?

8 A Dominick just wanted me to drive Randy to a location. We
9 had to wait for somebody to get out of the house. Randy had
10 to kill them. Then had to get Randy from that area. My
11 cousin would be waiting a few blocks away. And that -- I'll
12 get a call from my cousin, Anthony. Switch cars. When
13 Anthony felt comfortable, you know, when it was on time, and
14 they would kill Randy.

15 Q Who would kill Randy?

16 A My cousin, Anthony.

17 Q Did you have any discussion that night about what was to
18 happen to Randy's body?

19 A No.

20 Q Did you sit with Anthony Aiello and Dominick Cicale
21 during this conversation?

22 A I was very nervous. I didn't want to get caught on tape.
23 I felt that Dominick was cooperating. Because Vinny was in
24 jail for murder.

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2 A Couple days after, they were ordering another murder. My
3 experience in the mob, when people that, you know, cooperating
4 and this and that, I thought Dominick was wired up. So I
5 didn't -- I wasn't in the conversation. I didn't want to do
6 too much talking.

7 Q During the course of the conversation at the bar, did
8 your status in the Bonanno crime family come up?

9 A Yes.

10 Q How so?

11 A Dominick told me I just got approved to make in the
12 Bonanno crime family.

13 Q At the restaurant that night, did you agree to
14 participate in Randy's murder?

15 A No.

16 Q Did you tell Cicale that you would not participate in
17 Randy as murder?

18 A No.

19 THE COURT: No? I'm sorry. No to what? You told
20 him you would not participate?

21 THE WITNESS: I said no, and no. I just left off
22 like.

23 MS. MERKL: Can we clarify that?

24 BY MS. MERKL:

25 Q At the restaurant that night, did you agree to

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1 participate in the murder?

2 A I didn't say yes and I didn't say no.

3 Q Did you tell Cicale that you would not participate?

4 A No, I didn't say that, no.

5 Q Had you ever previously refused to do something that
6 Dominick Cicale had asked you to do?

7 A No.

8 Q Approximately how long did you meet with Cicale and
9 Aiello at the bar?

10 A It was close to like an hour.

11 Q What time of day was your meeting?

12 A It was late at night -- no, it was like nine, eight, nine
13 o'clock at night. It was dark out.

14 Q What happened after you left the bar?

15 A I told my cousin, Anthony, we have to pull over when you
16 get back. I want to talk to him.

17 Q Did you in fact pull over when you returned to your
18 neighborhood?

19 A Yes.

20 Q Where did you go?

21 A Juniper Park, Middle Village, Queens.

22 Q At the park, did you have any further discussion with
23 Anthony Aiello about the murder plot?

24 A Yes.

25 Q What was the substance of your discussion?

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1 A I was trying to convince my cousin they're setting us up.
2 They're going to set us up, send us to jail. They set us up
3 for murder. It doesn't feel good, Anthony. I don't want to
4 do it, not going to do it. Drilling into his head that
5 something was wrong. I wasn't so long one thing at the time.
6 I saw they were setting up us for murder, to get us like in a
7 wiretap, on a conspiracy.

8 Q After in -- your conversation with Anthony and Dominick
9 that night, did you have an understanding of when the murder
10 was to occur?

11 A Yes, the next day.

12 Q The day after that first meeting?

13 A Yes.

14 Q When did you next see your cousin?

15 A I called him the next day. I met him in fronts of a
16 7-11. It was drizzling outside.

17 Q Approximately what time of day?

18 A It was like ten o'clock in the morning.

19 Q During that conversation at the 7-11, what did you
20 discuss with Aiello?

21 A That that I was telling him I'm not doing it. Tried to
22 get in touch -- beep Dominick and he didn't beep me back, to
23 tell him that I wasn't going to do it, but Dominick never beep
24 me back.

25 Q What did Aiello say to you in response, if anything?

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1 A Yeah, he's out of town.

2 Q Aiello told you that who was out of town?

3 A Dominick Cicale was out of town.

4 Q What happened next with respect to the plot to kill
5 Randy?

6 A I got called. I never showed up. I got called. It was
7 right after thanksgiving, because Thanksgiving dinner, I was
8 sitting at the end of my table with my family. And I was
9 saying, this guy Randy doesn't know how lucky he is. He's
10 living because of me, because I was nervous. I refused to
11 murder. Now I'm in trouble with the mob. And I'm saying to
12 myself, he doesn't know how lucky he is, Thanksgiving, he's
13 home with his family because of me.

14 Q What happened next? You said you got called?

15 A Yes. Now I'm worried about when Dominick comes back, and
16 I got beeped from Dominick.

17 Q When did you receive that beep from Dominick?

18 A Had to be the end of Thanksgiving.

19 Q What happened after you got the beep from Dominick?

20 A I'm worried about -- I refused to murder, and every time
21 I could get --

22 THE COURT: Slow down.

23 A Every time I would get beeped by Dominick, I would call
24 my cousin, Anthony, and say, Anthony, Dominick beeped me. He
25 told me, I beeped -- I was there when Dominick beeped you.

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1 BY MS. MERKL:

2 Q After you had that conversation with your cousin, did you
3 agree to meet with anyone?

4 A Yes.

5 Q Who did you meet with?

6 A Dominick and my cousin, Anthony.

7 Q What happened at the meeting?

8 A Dominick asked me what happened.

9 Q What, if anything, did you tell him?

10 A I come up with a bunch of excuses, my back. I didn't
11 feel good, you know. I came up with a bunch of different
12 excuses why I didn't show up to do the murder.

13 Q In substance, what did Cicale say to you at that meeting?

14 A First, he started off talking to me calm, then he just
15 snapped at me. He said, "You know, you talk like you got rat
16 potential."

17 MR. GOLTZER: I didn't hear that, Judge.

18 THE COURT: Say that again?

19 THE WITNESS: You got rat potential.

20 THE COURT: He said that to you?

21 THE WITNESS: Yes.

22 THE COURT: Next question?

23 BY MS. MERKL:

24 Q When Dominick told you that you had rat potential, what
25 did you understand him to mean?

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1 A That I would cooperate with the government, but my cousin
2 Anthony jumped in the conversation.

3 Q What did he say?

4 A He said, "My cousin would never rat. My cousin would
5 rat, I would do life for my cousin."

6 Q How did you react?

7 A "Dominick, I know I put a bullet -- a gun in my own
8 mouth. I put a bullet. I do a murder for you. I know I'm in
9 trouble, like I'm saying. And you would probably use my
10 cousin, Anthony, to kill me."

11 Q Did anybody react when you made that statement?

12 A Yes. Why cousin got very upset at me.

13 Q What did your cousin say?

14 A What do you mean I will kill you?

15 Q How did you react?

16 A Nothing. Dominick turned around and says, "Shut up." He
17 told my cousin, Anthony. "Your cousin knows the rules of
18 organized crime. If I tell you to kill your cousin, you would
19 do it."

20 Q How was your conversation concluded?

21 A Dominick just told me, "I want to just keep you around
22 for ~~the same~~ ^{legitimate} things. Get back in the car."

23 Q At that meeting, how did you leave things with Cicale
24 with regard to your possible participation in this plot to
25 kill Randy?

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1 A I wasn't going to do it. And I wasn't going to do it.

2 Q After that meeting, did you receive a telephone call from
3 your cousin, Anthony Aiello?

4 A Yes.

5 Q Did you later meet with him?

6 A Yes.

7 Q Where did you meet him?

8 A At the liquor store on Fresh Pond Road.

9 Q When you met with him, what if anything did he say to
10 you?

11 A Dominick's very upset at you. He wants a \$20,000 gift
12 for Joe Massino's wife at Christmas.

13 Q How did you react when Aiello asked you for a \$20,000
14 gift for Joe Massino's wife?

15 A I told him, "I'm not giving him fucking nothing."

16 Q Did you later give money for Christmas?

17 A Yeah. Pat owes me ten thousand, so I gave him ten
18 thousand.

19 Q After that first meeting with Cicale and Aiello after
20 Thanksgiving, were you beeped again?

21 A Yes.

22 Q Approximately when?

23 A A day or so afterwards.

24 Q What did you do after you received the beep, if anything?

25 A I spoke to my cousin, Anthony. He assured me that

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1 nothing would ever happen to me, you know, like, if Dominick
2 would try to kill me, he would tip me off. So he told me, "I
3 was there again. When Dominick beeped, I'm going to be there,
4 too."

5 Q Did you meet with anybody after speaking with Aiello?

6 A Yes.

7 Q Who did you meet with?

8 A My cousin, Anthony. Couple minutes later, Dominick
9 pulled up with Louie Electric, in Louie's car.

10 Q Where did you meet these men?

11 A My spot in the Bronx.

12 Q Did you speak with Dominick at that meeting separately?

13 A Yes. Dominick broke away from my cousin, Anthony, and he
14 took me for a walk.

15 Q On your walk with Dominick, what was the substance of
16 your conversation?

17 A He was just trying to still convince me, your cousin,
18 Anthony, feels comfortable to do the murder with you. He
19 doesn't trust nobody else. He doesn't feel comfortable to do
20 it with anybody else. All you have to do is drive.

21 If you worried about Randy got a big mouth, I will
22 get Randy out of the house. I will beep him to make him leave
23 the house.

24 Q Did you agree to participate?

25 A No.

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1 Q How were things concluded at your meeting with Dominick?

2 A Dominick tells me, okay, give me a lift. And I took
3 him -- I gave him a lift by his cousin, Matty's house, a few
4 blocks a way. And he told me to give a message to my cousin,
5 Anthony: "Go tell your cousin to go with the other plan."

6 Q So just to break that down. When you left Cicale on that
7 occasion, where did you leave him?

8 A By his cousin, Matty's, house in the Bronx.

9 Q And in your drive over to his cousin, Matty's house, he
10 asked you to pass a message?

11 A Yes.

12 Q What was the message?

13 A "Tell your cousin to go with the other plan."

14 Q When Cicale told you to pass that message, do you know
15 what "the other plan" was a reference to?

16 A No.

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8 Q After you learned about Randy's murder, did you receive
9 another beep?

10 A Yes.

11 Q Approximately when?

12 A Two days afterward.

13 Q Who beeped you?

14 A Dominick.

15 Q How did you react when you got the beep?

16 A I called my cousin, Anthony. Anthony, he's calling me
17 again.

18 Q What happened next?

19 A He goes, "Don't worry about it. Just do whatever he
20 tells you to do. Just I'm going to be there, too."

21 Q Did you go somewhere?

22 A Yes. I met him at my spot in the Bronx.

23 Q Who did you meet at your spot in the Bronx?

24 A I met Dominick and Vinny Masi was there and my cousin,
25 Anthony, was there.

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1 Q After you arrived at your spot in the Bronx, what if
2 anything did you discuss?

3 A Dominick turned around to me, goes to me, "Did you read
4 the -- did you see in the papers?" And I smirked. I says,
5 "Yeah, shit happens."

6 Q After Dominick's comments about reading the newspaper,
7 did he comment further?

8 A Yeah. He was telling us that I have to go to this
9 shithead's funeral tonight.

10 Q What funeral did you understand Cicale to be referring
11 to?

12 A Randy's.

13 Q Had you ever heard Cicale speak about Pizzolo in that
14 manner before?

15 A Never.

16 Q How had Cicale spoken about Pizzolo before?

17 A When he was always with me, he always talked good about
18 Randy, the only person I ever heard talking good about Randy.
19 He do this together, construction together. He would never be
20 made, he would tell me. He liked -- he used to hang out a lot
21 of, used to go out to dinner with his wife, his girlfriends.

22 Q Did you have any private conversations with Cicale at
23 that meeting?

24 A We walked away. First, he handed me over some money that
25 he owed me for sports betting business a couple weeks ago.

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1 What was going on.

2 And I come up with an excuse. I told him,
3 "Dominick, I'm sorry. I'm going to take a lot of medication
4 for my back. I'm not been doing good. I fucked up with the
5 Eric situation. I froze up with my cousin, Anthony, up there
6 with the hammers."

7 Then I told him, "Listen. I want to tell you
8 something. I robbed a drug dealer, and the thing went bad.
9 The guy knows where I live. And I stuck a gun in his head I
10 went to shoot the guy. The gun jammed on me. I been going
11 through a lot of mental shit in my head. Shit in my life.
12 Taking medication. My back is all messed up. And I
13 apologized to him.

14 Q When you told Dominick about this robbery of a drug
15 dealer was that true?

16 A No, it wasn't true.

17 Q Why did you tell him that sorry?

18 A I just wanted him to, you know, again, now I know he's
19 not cooperating. He killed a guy. I'm trying to win him
20 over. In truth, I really did, because he turn around and goes
21 to me, "That's what we are here for each other. That's what
22 we're all here for each other, because of Anthony or me will
23 help you.

24 Q Why did you provide all of these explanations to Dominick
25 about why you did not participate in the murder?

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1 A Because I know I'm screwed for my own life right now,
2 because I refused to murder.

3 Q How were things left with Cicale?

4 A At that time, right before Vinny went to jail, he told me
5 that Vinny wanted me to go work at the bar. I never went
6 before that -- with his son, Vinny Jr. and Anthony to go work
7 at the body shop with his other son.

8 At that time, I never showed up. So Dominick turned
9 around and goes, "From now on, go back to the bar we had, you
10 know, take your shoes back in the bar, and just go back to
11 work at the bar, with his son."

12 Q That was the bar that you had opened with Cicale and
13 Vincent, Jr.?

14 A Yes.

15 Q From the time that you learned about the plot to kill
16 Randy and when you learned he was actually killed,
17 approximately how much time passed?

18 A Less than two weeks.

19 Q Did you ever learn why Randy was killed?

20 A No.

21 Q Did anybody ever tell you who specifically decided to
22 kill Randy?

23 A No.

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Q When -- after Anthony got up, what if anything happened?

A Dominick started with me all over again. "You know, you have to make this up for me. You have to kill somebody for me."

Q When Dominick said you have to make it up to him, what did you understand him to be referring to?

A Because I disappointed him the first time he asked me, I refused him. I never showed up.

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12 Q At some point on New Years Eve did you have a
13 conversation with Cicale?

14 A Yes, we were sitting, me, Anthony in the corner. And
15 then a bunch -- all the women were sitting a few feet away
16 from us, and we kept joking around.

17 Q In what way?

18 A He said, I love you. If it wasn't because of me, you
19 should be dead right now. My cousin Anthony told him to stop
20 it. Stop talking, because they were drinking.

21 I was living because of him. Like my life was --
22 because of him I'm living.

23 Q What did you understand Cicale to be referring to?

24 A The same situation, because I never, you know, committed
25 the murder for him.

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1 Q Where was Anthony Aiello during that conversation?

2 A He was right next to him, kept telling him, Dom, stop
3 talking, change conversations.

4 Q Is there a rule in organized crime about talking about
5 murder?

6 A Yes, you're not supposed to talk about it.

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5 Q Did you know that your name had been put in for being
6 straightened out by anyone?

7 A A couple of times, that I know of.

8 Q Which was the first time?

9 A John Palazzolo.

10 Q John put your name in?

11 A Yes.

12 Q And who put your name in the second time?

13 A Dominick.

14 Q And that was before he came to you with the idea of
15 Randy?

16 A No, he told me I just got approved the same day he told
17 me about the murder plot.

18 Q There was around Thanksgiving of 2004?

19 A Yeah, a little before.

20 Q A day or two before Thanksgiving?

21 A No, a good week before.

22 Q A week before? Are you sure?

23 A A couple -- I don't remember exact dates, it's a time
24 frame, it's like four or five days.

25 Q Four or five days before Thanksgiving, 21st, 22nd?

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1 A I don't remember the dates.

2 Q So we can't be exact about the date?

3 A It was around Thanksgiving, a week before Thanksgiving.

4 Q But whenever it was, Vinny was no longer on the street?

5 A Right.

6 Q Now, when Vinny was on the street, you had not heard
7 about any plan to kill Randy. Had you?

8 A No.

9 Q While Vinny was on the street, Dominick Cicale never
10 approached you with the idea of killing Randy, did he?

11 MS. MERKL: Your Honor, asked and answered.

12 THE COURT: You may answer.

13 THE WITNESS: Repeat the question.

14 MR. GOLTZER: May we have it read back?

15 THE COURT: Yes.

16 (Requested portion read back.)

17 THE WITNESS: Never.

18 BY MR. GOLTZER:

19 Q Is it accurate to say that never at any time had you
20 agreed to take part in the murder of Randy Pizzolo?

21 A No.

22 Q Is that accurate or not?

23 A No.

24 Q That's true, you never did?

25 A No.

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1 Q You're saying no, but --

2 A I have to explain the question I didn't say yes, I didn't
3 say no. I walked away from Dominick. I never told him no,
4 and I never told him yes.

5 Q You never agreed, did you?

6 A But I left. In his knowledge, I was going to go ahead
7 with the plan, but I never said yes, and I never said no.

8 Q Okay. After that, after Vinny was arrested, did Dominick
9 ever say to you, in words or substance, I'm calling this off,
10 don't be involved in hurting Randy?

11 A No, he never said that.

12 Q And that was never said to you, obviously, before Vinny
13 was arrested?

14 A This conversation never took place. I don't think this
15 conversation took place after Vinny got arrested.

16 Q That conversation in fact never took place at all?

17 A About what?

18 Q About Dominick saying I'm calling this off; that never
19 happened?

20 A No. No.

21 Q Ever?

22 A No. Not with me.

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1 Q Would you agree that you read the newspaper article about
2 Randy being killed sometime around the beginning of December?

3 A Yes.

4 Q And then you were, you were beeped by Dominick and you
5 had a conversation about the funeral?

6 A Yes.

7 Q And I believe you took -- did you tell us yesterday that
8 what Dominick said was, forgive my French, I have to go to
9 that shithead's funeral tonight?

10 A Yes.

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CHARISSE KITT, CRI, CSR, RPR, FCRR
Official Court Reporter

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18 Q When Dominick was talking to you about killing Randy,
19 trying to convince you to do it, did he say something to you
20 about, are you worried about Randy's wife?

21 A That Randy had a big mouth, he was going to tell his wife
22 or somebody else, yes.

23 Q And did Dominick say to you, don't worry about her, all
24 she cares about is money, and we'll take care of that?

25 A That happened. I don't know if it happened before the

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1 murder or after the murder, that conversation.

2 Q You don't know if it happened before the murder or after
3 the murder?

4 A Yeah, but Dominick said that, yes.

5 Q He did?

6 A Yes.

7 Q You don't remember when? If you don't remember, you
8 don't remember. It's okay. Do you remember or not?

9 A I remember exact words what he said.

10 Q What were the exact words?

11 A His exact words, she's Puerto Rican. With a few dollars,
12 she'll shut up, she knows, she won't hurt the mouth that feeds
13 her, I guess, if he gives her money, she won't say anything.

14 Q Is that in connection with, with murdering Randy?

15 A Yeah, I think so, yes.

16 Q So the first conversation you had about murdering Randy
17 took place after Vinny was in jail?

18 A Yes, a couple of days afterwards.

19 Q [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 Q [REDACTED]

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Q Now, the first time that you were asked to kill Randy,
you didn't accept and you didn't refuse. Is that right?

7

A Yes.

8

Q You certainly didn't want to agree?

9

A Yes.

10

Q And were you afraid to refuse him?

11

A In front^{of}~~ed~~ him, yes.

12

Q Why?

13

A Because, the mob -- Dom always told me to do something, I
always did it. You know. The situation is, mob rules is if
they tell you to kill somebody, you're supposed to kill him.
If you don't you're going to get killed.

17

Q So you had to kind of duck the issue?

18

A Yes.

19

Q So you were having a conversation with Ace about it,
right?

21

A A lot.

22

Q And then you ducked the issue. Right?

23

A What do you mean by ducking?

24

Q You, you didn't tell Ace -- right away, did you -- you
didn't tell Dominick I'm not going to do it?

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1 A I didn't tell Dominick. Anthony, I told him, I'm not
2 doing it, I'm not doing it, I'm not doing it, I'm not doing
3 it.

18 Q Do you know when he came back?

— 19 A It had to be after Thanksgiving, that's when he started
20 beeping me.

21 Q He started ^bleeping you after Thanksgiving?

22 A Yes.

23 Q ~~A~~ And then there were a series of conversations between
24 you and Dominick about you're not going forward with some plan
25 to kill Randy. Right?

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1 A Yes.

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 BY MR. GOLTZER:

10 Q Did you make excuses for not doing if?

11 A Yes, I was telling him my back, I had a situation with my
12 back problems.

13 Q Did you have back problems?

14 A Yes, I did.

15 Q Was that the reason you didn't do it?

16 A No.

17 Q Were you taking medication?

18 A Yes, I always had back problems.

19 Q But that wasn't the reason you didn't do it?

20 A No.

21 Q Were you lying to Dominick?

22 MS. MERKL: Objection.

23 THE COURT: You may answer.

24 THE WITNESS: Yes, I was lying to Dominick.

25

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1 A Yes.

2 Q [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q When Dominick said you have rat potential, were you
7 concerned?

8 A Yes, I was.

9 Q And Ace came to your defense. Is that correct?

10 A Yes.

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Q That's all you remember. You actually said to Dominick Cicale, "I know I put a bullet in my own mouth." Is that correct?

A Yes.

Q I'd like to show you what's been previously marked as Defendant's Exhibit VBE. Do you recognize that location?

A That was the bar I met Dominick with Anthony.

Q Is that the Merchants Bar at 61st and First Avenue in Manhattan?

A Yes.

Q Does that appear to be the same bar and looks the same way, fairly and accurate?

A It looks like it.

MR. GOLTZER: I offer.

MS. MERKL: No objection.

THE COURT: All right. Defense Exhibit VBE is received in evidence.

(Defendant's Exhibit VBE admitted in evidence.)

Q And you recognize Defendant's VBF for identification, you recognize that interior location?

A It's very dark, I can't see it.

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1 Q Okay, I'll withdraw it.

2 A I can't see the picture on the screen.

3 MR. GOLTZER: May I approach the witness?

4 THE WITNESS: I can't see the picture on the screen.

5 THE COURT: I understand.

6 You may approach.

7 MR. GOLTZER: Thank you.

8 THE COURT: Is it the same exhibit or a different
9 exhibit.

10 MR. GOLTZER: It's a different exhibit.

11 BY MR. GOLTZER:

12 Q May I show you what's been marked VBF and VBG for
13 identification. Would you please take a look at those,
14 Mr. Gambina.

15 MS. MERKL: I'm sorry, what were the numbers?

16 MR. GOLTZER: F and G.

17 (Witness perusing.)

18 Q Do you recognize those locations?

19 A Yes.

20 Q What are they?

21 A This is location where I met my cousin Anthony to meet
22 Dominick talking about the murder plot.

23

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